



Utah State Office
of Education

SECTION 504

Guidelines for Public and
Charter Schools for
Implementing
Section 504
of the Rehabilitation
Act of 1973

DRAFT

February 2008 Revised

Special Note

The U.S. Department of Education's Office for Civil Rights (OCR)

has jurisdiction over Section 504. Its primary responsibilities include investigating complaints, conducting compliance reviews, and providing technical assistance. The regional OCR office representing Utah is located at

U.S. Department of Education
Office of Civil Rights, Region VIII
1244 Speer Boulevard, Suite 310
Denver, Colorado 80204-3582
(303) 844-5695, TTY (303) 844-3417

Website: <http://www.ed.gov/about/offices/list/ocr/index.html>

Utah State Office of Education

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This document was developed by John Copenhaver in collaboration with the Utah State Office of Education, Equity Office.



This document was developed by the Technical Assistance for Excellence in Special Education (TAESE) Center, the technical assistance division of the Center for Persons with Disabilities, a University Affiliated Program at Utah State University.

The content of this document does not necessarily reflect the position or policy of the Office of Special Education Programs (OSEP), the Office for Civil Rights (OCR), or USU and no official endorsement should be inferred. This document is not intended to provide legal advice; always check with your school attorney.

This information could be made available in alternative format, including large print, Braille, audio tapes, or CD.



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Overview of Section 504





Section 504—An Overview

What is Section 504?

Section 504 is federal civil rights law under the Rehabilitation Act of 1973. It provides protection against discrimination for individuals with disabilities

How does Section 504 relate to schools?

Students in school settings fall under the protection of Section 504, which prohibits discrimination on the basis of disability from all school programs and activities in both public and private schools receiving direct or indirect federal funding. Section 504 is the other service option available to students with disabilities **who are not already eligible and receiving special education services under the eligibility requirements of the Individuals with Disabilities Education Act (IDEA)**. Section 504 is designed to provide equal access and fairness in general education to students with disabilities, thereby leveling the playing field for them through what is known as a Section 504 Accommodation Plan. It is **not** a plan designed to enhance a student's performance. It is only a plan to provide fairness and equal access to education.

Who is eligible for a Section 504 Accommodation Plan?

A student is eligible for a Section 504 Accommodation Plan if an evaluation shows that the student has **a mental or physical impairment that substantially limits one or more major life activities *and* it impacts the student's education.**

Where does the process start? How does Section 504 relate to the tiered model of student intervention?

The Early Intervening Team (EIT) is the starting point to consider whether or not a student needs to be evaluated for a Section 504 Plan. When a student has not responded positively to interventions in an EIT intervention Plan and/or has a suspected disability, the EIT may determine that it needs to consider this option. Thus, a Section 504 Plan is a Tier II intervention—part of an early intervening and response to intervention (RtI) framework.

Who makes up a Section 504 Team?

Responsibility for considering and developing a Section 504 Accommodation Plan consists of a core group that includes the school principal or administrator, referring and/or classroom teacher, school counselor, and parent—virtually the same as the core members of the EIT. **In fact, the EIT in many cases, may also be the school's Section 504 Team.**

Is Section 504 funded like other federal programs?

No. There is no State or federal funding provided to assist in complying with Section 504. All costs are the obligation of the general school district/charter budget. Many schools have



established a Section 504 line item in their general fund budget to cover necessary accommodations for individuals with disabilities.

What are the parts of the Section 504 regulations?

Section 504 has several areas of particular importance for schools:

- Subpart B—Employment Practices
- Subpart C—Program accessibility
- **Subpart D—Requirements for pre-school, elementary secondary education**
- Subpart E—Requirements for Post Secondary Education

A summary of all parts of the Section 504 regulations are included in the Appendix of this guide. **This guide will primarily address Subpart D of the regulation, which is relevant to schools.**

All schools, charter schools, and public agencies must comply with the following seven requirements:

1. Provide written assurances of nondiscrimination when applying for federal funds.
2. Take steps to eliminate discrimination against individuals with disabilities.
3. Appoint a 504/ADA Coordinator for school systems with 15 or more employees to coordinate efforts to comply with this law.

—Best Practice—

Even if a district/charter/school has fewer than 15 employees, they should appoint a Section 504/ADA Coordinator.

4. Develop an ongoing process to locate and identify children who are not receiving services.
5. Provide public notice regarding nondiscrimination and responsibilities.
6. Develop a grievance procedure.
7. Conduct an ADA self-evaluation of their programs and activities to ensure facilities are accessible and discriminatory practices are eliminated.

Three Required Elements of Section 504

1. Eligibility process for 504 is not the first step in determining the needs of students. The first step begins with the school's Early Intervening Team (EIT) process that determines if the student has a need that warrants evaluation.
2. The determination of impairment must limit a major life activity.
3. Limitation on the major overall life activity must be substantial, not mild or moderate, and it must impact the student's education.

Subpart D: Requirements for Preschool, Elementary, Middle Level/Junior High, and Secondary Education

Preschool, elementary, middle level/junior high and secondary, and charter programs must take into account the needs of qualified persons with disabilities in determining the aid, benefits, or services to be provided under these programs or activities. The school must provide a free appropriate public education (FAPE) to students with disabilities in its jurisdiction who are eligible under Section 504.

Although Section 504 does not require schools to develop an Individualized Education Program (IEP) with annual goals, it is required that the schools provide written documentation for each eligible student. If the EIT suspects a need for accommodation, a referral should be made, evaluations conducted, and possible eligibility determined by a team knowledgeable about the student. If the student is eligible, the team might develop a Section 504 Accommodation Plan.

The quality of educational services provided to students with disabilities must be equivalent to the services provided to students without disabilities. Teachers, administrators, staff, and parents should receive ongoing training in the instruction of individuals with disabilities and be knowledgeable about the disability, appropriate materials, and equipment. The district/charter's Section 504 Coordinator will be responsible to develop and implement staff and parent training. In addition, each school should appoint a 504 Representative for each school building

Responsibility

Section 504 should fall under the ***responsibility of general education***. The figure on the next page illustrates some obligations of general education under Section 504 and their relationship to school personnel roles. The school staff and parents should collaborate to help guarantee that students are provided with necessary accommodations. A student who is found to have a disability under Section 504 is served by the resources provided through general education.

In summary, it is important to keep in mind that some students who have physical or mental impairments that substantially limit their ability to participate in the education program are entitled to accommodations under Section 504. **It is also important to remember that Section 504 is a management responsibility of general education.**

Three Laws: How They Relate

To understand Section 504, it is helpful to see how it relates to other relevant laws.

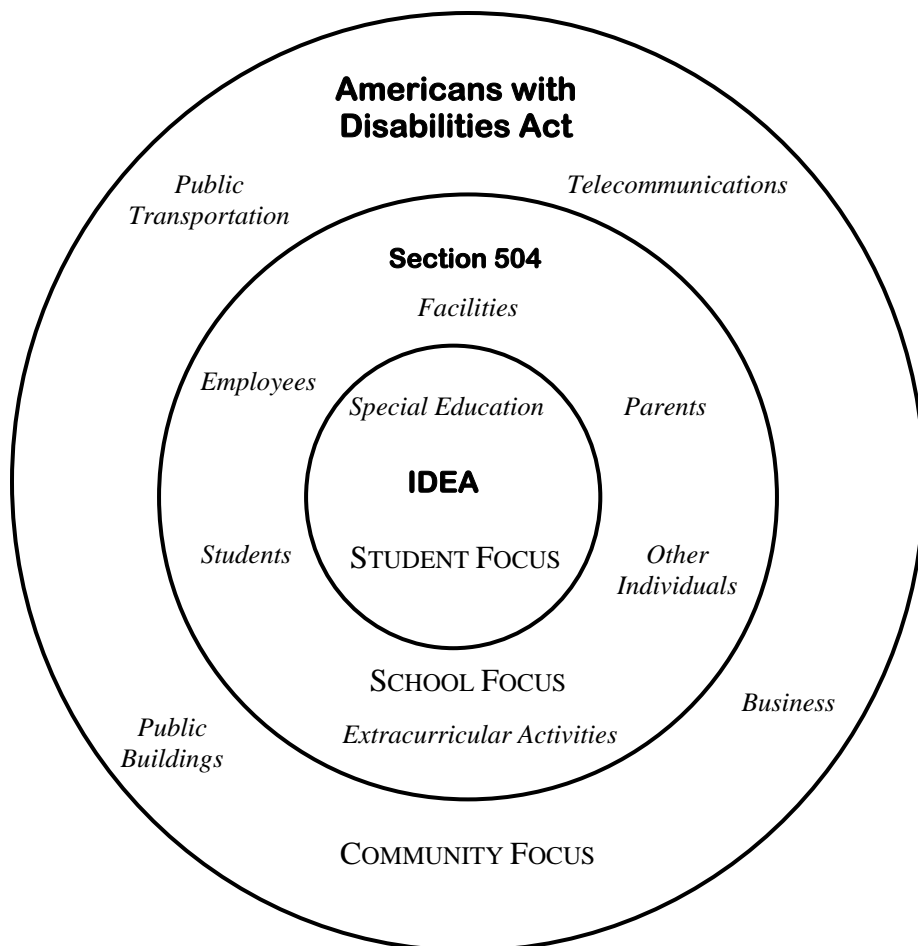
ADA—The ADA is federal law that provides civil rights protections to **all individuals with disabilities in our society** similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

Section 504—While Congress intended Section 504 to be consistent with the Individuals with Disabilities Education Act (IDEA), Section 504 is more encompassing. The Section 504 definition of a disability is much broader, including any physical or mental disability that substantially limits one or more major life activities, including, but not limited to, learning. **For public schools**, including charter schools, Section 504 covers all students who meet this definition, even if they do not fall within an IDEA disability category. All individuals who receive special education and related services under IDEA are also already considered to be qualified individuals under Section 504, as they are identified as students with a disability. However, the reverse is not true. Students who qualify for Section 504 services do not automatically qualify for special education under IDEA. The eligibility for Section 504 services must be based upon evaluations and conducted by a team of individuals

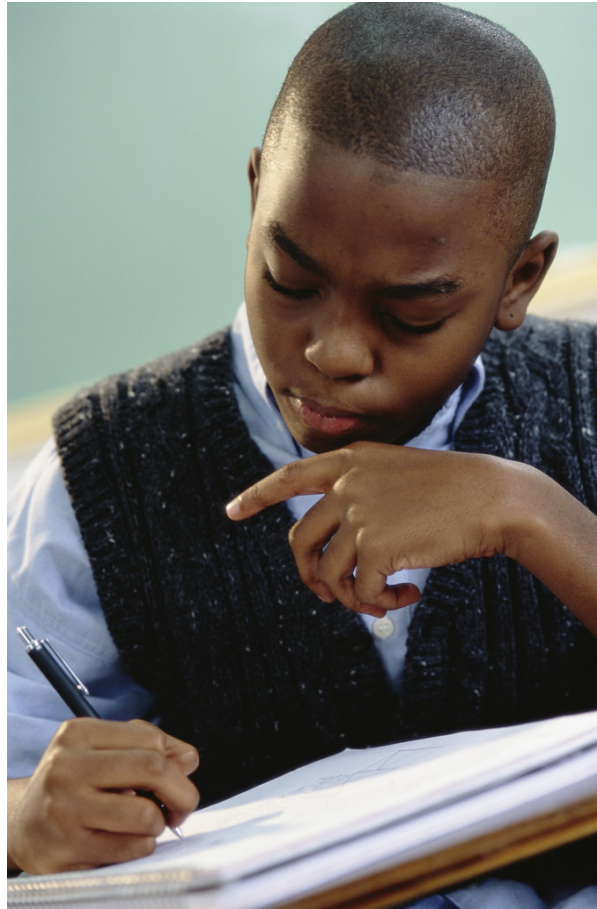
knowledgeable about the student. Students who qualify for Section 504 may require accommodations through a **Section 504**

Accommodations Plan developed by the school's EIT/504 Team.

IDEA—This law defines eligible students as those who have certain specific types of disabilities and who, because of those conditions, need special education (specially-designed instruction) and related services in order to benefit from their education provided through an **Individualized Education Program (IEP)**.



Section 504 Procedural Requirements





The Eight Procedural Requirements of Section 504*

To be in compliance with Section 504, districts/charter schools must do the following:

1. Provide **written assurance of nondiscrimination** whenever the school receives federal money (e.g., on the LEA application). [34 CFR § 104.5(a)]
2. Designate an **employee to coordinate compliance** with Section 504 (required if there are 15 or more employees—recommended for all). [34 CFR § 104.7(a)]
3. Adopt and implement **grievance procedures**, which incorporate due process standards, to resolve complaints of discrimination. While providing for mediation is a best practice, developing the grievance procedures for the complaint process and due process hearings are mandatory for a recipient of federal funds that employs 15 or more persons. [34 CFR § 104.7(b)].
4. **Provide notice to students and parents** stating that the agency does not discriminate on the basis of disability. The notification shall identify the employee responsible for coordination compliance with Section 504 (if more than 15 employees). Notice must be included in student/parent handbook. [34 CFR § 104.8] See Appendix B—Sample Forms—Form B(1).
5. **Identify and locate qualified children with disabilities** within their jurisdiction who are not receiving a public education. Complying with IDEA Child Find requirements is one way to comply with this requirement. [34 CFR § 104.32(a)]
6. **Annually notify persons with disabilities** and their parents or guardians of the school's responsibilities under Section 504 to identify and locate every qualified child with a disability who is not receiving a public education. [34 CFR § 104.32(b)]
7. Provide parents or guardians with **procedural safeguards**:
 - a. Notice of their rights
 - b. An opportunity to review relevant records
 - c. An impartial hearing: It is important that parents or guardians be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of individuals with disabilities and to be represented by counsel. [34 CFR § 104.36]
 - d. Review procedures: Compliance with the procedural safeguards under the IDEA is one way of meeting these requirements.
8. **Conduct a self-evaluation** of the school facilities, programs, and policies to ensure that discrimination is not taking place. [34 CFR § 104.6 (c)] This study is conducted with help from interested persons, including persons with disabilities.

Discussion of the Eight Procedures

Procedure One: Written Assurance

Whenever a district/charter applies for State or federal monies, it must assure that it does not discriminate on the basis of race, sex, color, national origin, age, or disability by signing assurance forms. This requirement is done routinely by all district/charters when they complete an application for funds.

Procedure Two: Section 504 Coordinator

The general provisions of Section 504, together with other federal nondiscrimination laws, require the designation of a person to coordinate the district's or charter school's efforts to comply with these laws. Coordination activities could include some or all of the following suggested responsibilities:

- Ensure nondiscriminatory educational practices.
- Establish and monitor a Section 504 referral/identification/review process.
- Maintain data on Section 504 referrals.
- Conduct staff and parent awareness and training activities concerning Section 504 requirements.
- Implement Section 504 grievance procedures for the district/charter.
- Monitor the local Section 504 budget.
- Consult with the director of special education.
- Serve as a liaison with the State Section 504 Coordinator.
- Serve as the liaison with the regional Office for Civil Rights.

The Section 504 Coordinator could be someone already employed by the district or charter school. A general education administrator or school counselor who is knowledgeable about federal laws and regulations would be preferred. In addition, it is best practice for each school to designate a Section 504 Representative to coordinate the district/charter's Section 504 Coordinator. A member of the school's EIT/Section 504 Team would make a good Section 504 Representative for the school.

Procedure Three: Grievance Procedures

General Information

If any person believes that the district/charter or any of its staff or schools have inadequately applied the regulations of Section 504 of the Rehabilitation Act of 1973, he/she may initiate a grievance with the district/charter's Section 504 Coordinator. The grievance procedures must explicitly state and make clear to the individual(s) involved that **a complaint can be made to the regional office of U. S. Department of Education's Office for Civil Rights (OCR) without going through the district/charter's grievance procedures.** The grievance procedures are meant to

provide for a prompt and equitable resolution of a complaint. OCR is the governmental agency that administers Section 504; therefore, the USOE does not accept, investigate, or resolve 504 complaints.

Local Grievance Procedures (Informal)

The 504 Coordinator, on request, will provide a copy of the district/charter's grievance procedure and investigate all complaints in accordance with this procedure. The procedure must contain a description of the types of complaints covered by the grievance procedure and a description of the investigative appeals process. The grievance procedure includes a statement that a copy of each of the acts and the regulations on which the notice is based may be found in the Coordinator's office.

The person who believes he/she has been discriminated against based on disability shall discuss the grievance with, and give the completed grievance form to, the Section 504 Coordinator who shall, in turn, investigate and reply to the complainant.

Step 1. A written grievance form signed by the complainant shall be submitted to the Section 504 Coordinator. The Coordinator shall further investigate the matters of grievance and reply in writing to the complainant within 10 business days.*

Step 2. If the complainant wishes to appeal the decision of the Section 504 Coordinator, he/she may submit a signed statement of appeal to the Superintendent of Schools within 10 business days* after receipt of the Coordinator's response. The Coordinator and Superintendent cannot be the same individual. The Superintendent shall meet with all parties involved, formulate a conclusion, and respond in writing to the complainant within 10 business days.**

Step 3. If the complainant remains unsatisfied, he/she may appeal through a signed written statement to the local board of education within 10 business days of his/her receipt of the Superintendent's response in Step 2. In an attempt to resolve the grievance, the board shall meet with the concerned parties and their representative within 40 days of the receipt of such an appeal. A copy of the board's disposition of the appeal shall be sent to each concerned party within 10 business days of this meeting.

**These are suggested grievance timelines.*

***If the Superintendent also serves as the Section 504 Coordinator, the appeal must go to another individual or the school board.*

Section 504 Grievance Form

Student Name: _____

School: _____

Parent Name(s): _____

Address: _____

Phone(s): _____

1. Summary of Grievance—What is the problem? What are the facts?

2. How can the problem be solved?

3. Who have you spoken to or met with at the school to address this situation?
What was the result of this contact? _____

4. Please describe any corrective action you wish to see taken with regard to
this grievance.

Please attach any additional information or documentation you wish the district/charter to consider. You also have the right to file a complaint with the regional office of the U.S. Department of Education's Office for Civil Rights (OCR) without going through the district/charter's grievance procedures

Signature of Parent

Date

Received by:

Signature of Section 504 Coordinator

Date

Copies: Parent
Student file
District/charter 504 Coordinator file

Federal Complaint Procedures (Formal)

The complainant may file a complaint with the Office for Civil Rights (OCR) at any time before, during, or after the local grievance procedures. The contact information for the regional office is as follows:

Office for Civil Rights
Federal Office Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
(303) 844-5695 TTY (303) 844-3417

The website for the Denver office is www.ed.gov/about/offices/list/OCR/index.html. Filing a grievance is not the same as filing a request for a due process hearing, which is discussed later.

Office for Civil Rights Complaint Process

An individual or an organization may file a complaint with the regional Office for Civil Rights (OCR) in Denver, Colorado. An OCR complaint must be filed, in writing, within 180 days after the alleged discriminatory act or from the time the person becomes aware of the alleged discriminatory act. In certain cases, OCR will consider complaints where more than 180 days have elapsed.

Anyone wishing to file a formal complaint with OCR should submit in writing the following information in a letter or on the Discrimination Complaint Form available from OCR regional offices:

- Name, address, and phone (a daytime telephone number is helpful)
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required)
- The name and location of the agency that committed the alleged discriminatory act(s), as well as the name of the “injured” person
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, sex, color, national origin, age, or disability)

A school may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation.



Mediation

Most of the time, parents and school staff agree upon issues regarding evaluation, eligibility, program, and placement of students with disabilities. However, there are times when disagreement occurs.

Conflict is often inevitable, but it need not produce negative results. If the parent and school are unable to resolve a conflict concerning a student with a disability, then mediation is an available alternative to a long and expensive due process hearing.

—Best Practice—

Every attempt should be made to resolve any differences between the school and parents before a complaint is filed and/or before the Office for Civil Rights is contacted. Mediation is an excellent technique to resolve differences.

The mediator is a neutral third party and, therefore, has no power to make a decision regarding the dispute. He or she will listen to the views of each party and will assist the parties in developing their solution to the problem. The mediator has been trained to handle Section 504 disputes.

Mediation is completely voluntary. It should not interfere with any procedural safeguards, including filing a grievance with the district/charter requesting a due process hearing or filing a complaint with OCR. **Mediation costs are the responsibility of the school.**

A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student and in compliance with Section 504 regulations. This occurs at a non-adversarial meeting that is more structured than a parent-school conference but less formal than a due process hearing. Parents and schools are encouraged to try mediation before relying on more formal procedures such as the grievance procedures, complaints to OCR, or due process hearings.

Section 504 Due Process Hearing

Due Process is defined as an opportunity to resolve a dispute between parents and schools over the decisions made and/or procedures used by the school under Section 504. A Section 504 due process hearing may be called **at the request of the school or a parent, guardian, or surrogate parent of the student.** It is required that **parents or guardians** be notified of their right to request a hearing regarding a dispute over the identification, evaluation, or educational placement of a student with disabilities being served or considered for Section 504. Due process related costs are the responsibility of the school district/charter school.

Things to know about a Section 504 Due Process hearing are as follows:

- The proceedings will be presided over and decided by an impartial hearing officer, who is not the same individual as the Section 504 Coordinator. An impartial hearing officer is a person selected to preside at a due process hearing to ensure that proper procedures are followed and to ensure the protection of the rights of both parties.
- A copy of the hearing officer's decision shall be delivered to the school and the parent or guardian following completion of the hearing. Following IDEA procedures and timelines is one way to comply with Section 504 due process hearing requirements.
- Documentation of the events of the due process hearing will be maintained at the school office and shall be available for review upon request by the parents or involved parties. Although not required, a written or verbatim recording of the due process hearing would be one way to provide this documentation.
- If the school proposes to change the student's 504 placement and the parent files a request for a hearing, the school is obligated to maintain the student's 504 placement until administrative proceedings are completed.



Procedure Four: General Notice to Students, Parents, Employees, and Other Individuals

Sample Notice

Section 504 of the Rehabilitation Act And Americans with Disabilities Act

Notice of Nondiscrimination

Applicants for admission and employment, students, parents, persons with disabilities, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the _____ are hereby notified that this district/charter does not discriminate on the basis of race, sex, color, national origin, age, or disability in admission or access to, or treatment or employment in, its programs and activities.

Any person having inquiries concerning the district/charter's compliance with the regulations implementing Title VI, Title IX, The Americans with Disabilities Act (ADA) or Section 504 is directed to contact the following individual who has been designated by the district/charter to coordinate efforts to comply with the regulations regarding nondiscrimination:

Name _____

Title: _____

Phone: _____

Recommendations for notice dissemination

- Staff, parent, and student handouts
- Annual mailing to staff/parents
- Staff workrooms
- Bulletin boards
- Student/parent handbooks
- Professional contracts
- School district/charter website
- Job announcements



Procedure Five: Locate and Identify (Child Find)

The district/charter shall maintain an ongoing program to find unserved children who might qualify for special education or Section 504 services. This is known as **Child Find**. To encourage the use of services and ongoing assistance at the earliest age possible, the following methods could be used to identify unserved children.

It is recommended that the district/charter combine the special education and Section 504 Child Find procedures. Costs could be shared between special and general education budgets to meet this requirement.

- Use the existing special education Child Find process; just add Section 504 language to the school's notice and announcements.
- Develop a series of spot announcements for all local news media.
- Create a series of posters to be placed in post offices, city hall, schools, and other public buildings.
- Distribute a referral form to such public and private agents as hospital administrators, public health officers, social welfare offices, private medical practitioners, public nursery schools, and/or child-care and Head Start directors.

Section 504 or special education referrals resulting from Child Find efforts are sent to district/charter's Child Find Office. That office will then direct the referral to a district/charter administrator or school, as appropriate.



Procedure Six: Notice to Parents and Individuals with Disabilities

Sample Notice

NOTICE

Programs for Students with Disabilities under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibit discrimination against persons with a disability in any program receiving federal financial assistance. Section 504 defines a person with a disability as anyone who . . .

Has a mental or physical impairment which substantially limits one or more major life activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

The district/charter has the responsibility to provide accommodations and services to eligible individuals with disabilities. The district/charter acknowledges its responsibility under Section 504 to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability shall knowingly be permitted in any program or practice in the district/charter.

Recommendations for notice dissemination

- To parents upon referral
- Bulletin boards

- School district/charter website
- Professional contracts
- Job announcements
- Staff workrooms
- Annual mailing to staff



Procedure Seven: Parent and Student Rights under Section 504

Sample Notice

The following is a description of student and parent rights under Section 504 and other federal laws. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

You have the right to the following:

- Have your child take part in and receive benefits from public education programs without discrimination based on a disability.
- Receive notice with respect to identification, evaluation, program, or placement of your child.
- Have your child receive a free appropriate public education. This includes the right to be educated with other students to the maximum extent appropriate. It also includes the right to have the school make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
- Have your child educated in facilities and receive services comparable to those provided for students without disabilities.
- Have evaluation, educational, and placement decisions made based upon a variety of information sources and by individuals who know the student, disability, evaluation data, and placement options.
- Give your child an equal opportunity to participate in nonacademic and extracurricular activities offered by the school.
- Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement.
- File a local grievance with your school if you feel your child is being discriminated against because of their disability.
- Request a due process hearing to help resolve issues with the school.
- File a formal complaint with the regional Office for Civil Rights. The office is part of the U.S. Department of Education. The regional office is located at 1244 Speer Boulevard, Suite 310, Denver, Colorado, 80204-3582. This can be in addition to or in lieu of a school grievance or due process hearing.

If both a district/charter-level grievance and formal OCR complaint are filed, OCR will have jurisdiction.

Procedure Eight: Self-Evaluation

A self-evaluation to determine possible discrimination and access involving school facilities, programs, activities, and policies is a requirement of both Section 504 of the

Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Any district/charter/school that employs **15 or more employees** shall conduct such an evaluation and develop a transition plan that outlines how the school will eliminate any form of discrimination. The self-study should be on file and available for public inspection.

The following are key considerations when conducting the self-evaluation:

- Evaluate facilities, programs, and policies for possible discriminatory practices.
- Involve other individuals, including persons with disabilities.
- Develop a Section 504 transition plan that outlines any modifications that will be necessary. This plan identifies facilities, programs, and policies that could be discriminatory and how the school intends to solve the problems.
- Modify any policies, facilities, or practices that do not meet the requirements of Section 504 or ADA, after consultation with others, including persons with disabilities.
- Take appropriate remedial steps to eliminate the effects of any discrimination resulting from policies and practices.
- Keep a copy of the self-evaluation on file for public inspection.
- Conduct periodic updates of the self-evaluation.
- Ensure all new policies are nondiscriminatory.
- Ensure all new facilities are accessible for individuals with disabilities.

Instructions and forms for conducting a self-assessment are available in the appendices of this document or from the Office for Civil Rights (www.ed.gov/about/offices/list/OCR/index.html).



Everyone Has Section 504 Responsibilities

Student and Parent

- Be involved in suggesting accommodations.
- Participate in Section 504 meetings.
- Benefit from the program.

School Principals, Certified, and Classified Staff

- Conduct nondiscriminatory practices in classrooms.
- Refer/identify/evaluate students, as appropriate.
- Encourage parent involvement.
- Develop and implement program modifications and accommodations.
- Designate a Section 504 Representative for the building.

504 Coordinator

- Coordinate Section 504 processes and training for the district/charter.
- Provide staff and parent training.
- Manage Section 504 grievance procedures.
- Help conduct the self-evaluation.

Superintendent

- Designate a district/charter Section 504 Coordinator.
- Provide written notice to parents, students, school personnel, and community members of the name and contact information of the 504 Coordinator.
- Provide continuing notice to students/employees.

School Board

- Establish policies of nondiscrimination.
- Develop grievance procedures.
- Develop hearing procedures.



Eligibility and Determination of Section 504 Services



Important

Section 504 Eligibility

The following is the eligibility criteria for a student to receive accommodations under Section 504.

A person may be considered disabled under the definition of Section 504 if the individual

1. Has a mental or physical impairment that substantially limits one or more of such person's major life activities **and** impacts the student's educational program.

"Major life activities" include functions such as the following:

- caring for one's self
- walking
- seeing
- speaking
- learning
- performing manual tasks
- hearing
- breathing
- working

*When a condition does not substantially limit a major life activity, the individual does not qualify for services under Section 504. **The condition must impact the child's educational program.***

2. Has a record of such an impairment.
3. Is regarded as having such an impairment.

Important:

The second and third prongs of the definition only become a factor if discrimination or negative action has occurred because of the "record" or "history" or is regarded as having an impairment.



General Section 504 Procedures: An Overview

If the school has reason to suspect that because of a disability, a student needs accommodations in the general educational environment in order to have equally effective participation in the school program, then the school must notify the parent of the need for an individual evaluation and evaluate the student. If the student then qualifies for a Section 504 Plan, a plan is developed and implemented. **In Utah, schools are required to have an Early Intervening Team (EIT).** This process is referred to by numerous names depending on the school district/charter school. **The Section 504 referral and eligibility procedures occur through the EIT process. The school's EIT also wears the hat of the Section 504 Team.**

First, the EIT/504 process determines the need for the evaluation. The evaluation must be sufficient to assess the nature and extent of the educational impact of the disability so that appropriate educational services can be determined. Identification of services that are needed must be made by a group of persons knowledgeable about the student and based on evaluation data.

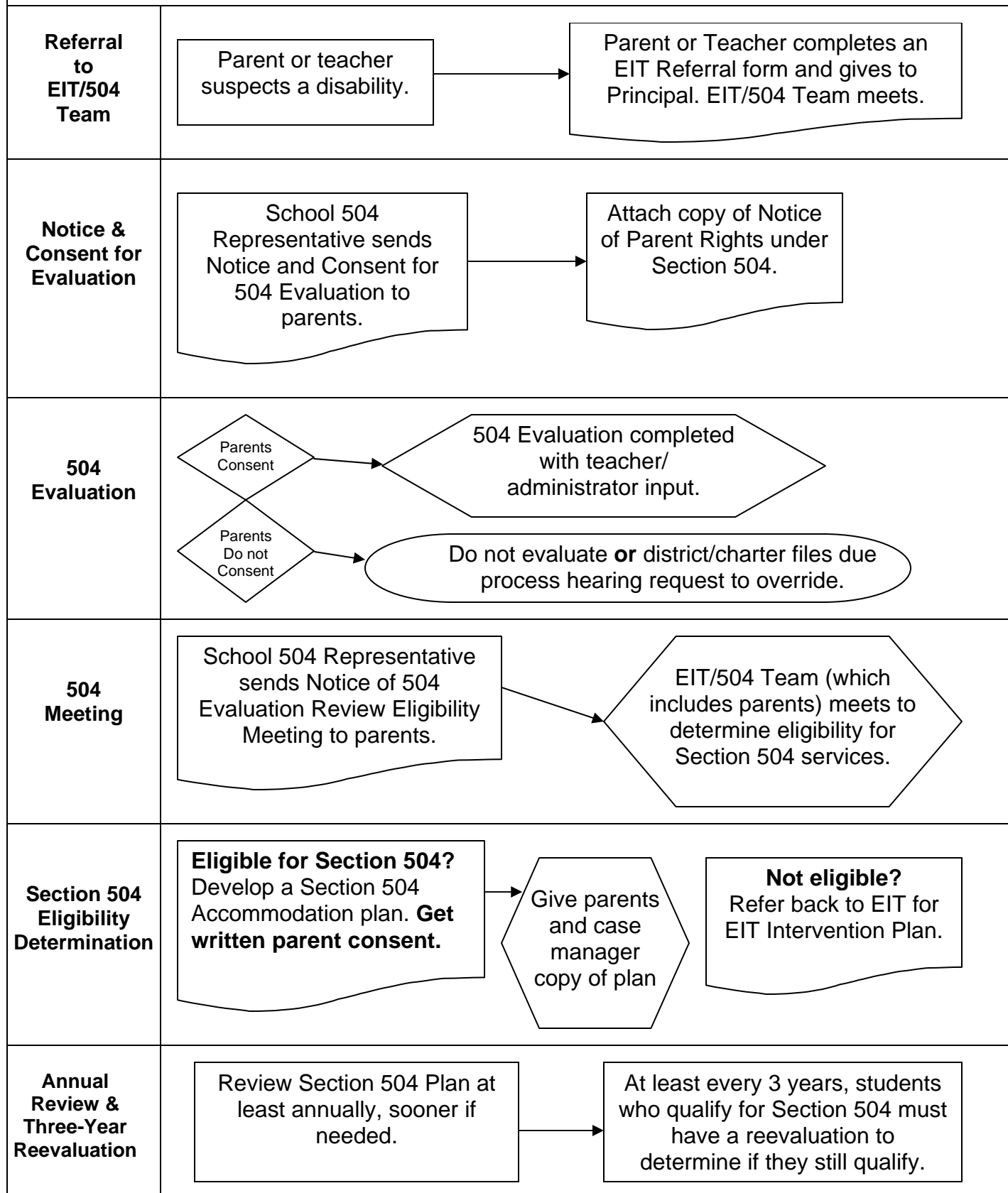
Decisions about Section 504 eligibility must be documented in the student's EIT or Section 504 file. Once a Section 504 Plan is developed, it is reviewed at least yearly or whenever any member of the 504 Team believes it is necessary. A case manager, who is often the school's 504 Representative, must be assigned to complete and manage each Section 504 student file. A student's Section 504 Plan must be provided in the least restrictive environment, most likely the general education classroom.

Under Section 504, parents or guardians must be provided with notice of any action that changes the identification, evaluation program, or placement of their child. **Written consent for initial evaluation and initial placement is required.** The parents should be included in the evaluation, eligibility, and placement process whenever possible. Parents or guardians have the right to file a grievance, request mediation, ask for a due process hearing, or file a complaint with the regional Office for Civil Rights in Denver, Colorado, if they disagree with the school's actions.

—Best Practice—

*Parent participation should always be encouraged throughout
the Section 504 process.*

Overview of Section 504 Process—Suggested



Process for Determining the Need for a Section 504 Plan

The district/charter's Section 504 Coordinator and school's Early Intervening Team (EIT) should ensure that the following process has occurred. There are sample forms available in Appendix B for each step of this process.

EIT Referrals

1. When a student is experiencing difficulty or has impairment, he or she should be referred to the school's EIT. Referrals to the EIT are filed with the building administrator and are accepted from parents and/or the student's teacher.

General Education Interventions and/or Further Referral

2. The EIT, which includes the parent, meets to discuss the concerns. The presenting problem(s) and previous remedies are considered and reviewed. The review/discussion should include all current information, performance data, and recommendations.
3. The EIT suggests intervention strategies to help correct the difficulties. The primary function of the EIT is to develop an EIT Intervention Plan, if necessary.
4. If the EIT determines that an EIT Intervention Plan is warranted, then the plan is implemented and reviewed after a defined period of time. If the review demonstrates that the response to this intervention was unsuccessful, the EIT can make a referral to another program for evaluation. (Section 504, special education under the IDEA, Title I, or other district/charter program, as appropriate)
5. The EIT may also determine at Step 2 above that the nature of the student's difficulty warrants an immediate referral to another program for evaluation. Important: If the student has an obvious disability or is in obvious crisis, the EIT should not delay in making a referral for a Tier III multidisciplinary evaluation to consider the possible need for special education.
6. A word about **temporary disabilities**—a temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability and warrant evaluation or intervention must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

Evaluation for Section 504—Notification

7. The Section 504 regulation requires school district/charters to individually evaluate a student before providing the student with a Section 504 plan. The school notifies the parents, in writing, of the school's reason and intent to conduct an evaluation under Section 504. The notice should include a description of the evaluation and of a copy the procedural safeguards (parents' rights) under Section 504.

Written Consent for Evaluation

8. Section 504 requires written parental permission for initial evaluations.
9. If a parent refuses consent for an initial evaluation and a school district/charter suspects a student has a qualify impairment, Section 504 regulations provide that school district/charters *may* use due process hearing procedures to override the parents' denial of consent.

Evaluation

10. The school evaluates a student suspected of having a qualifying impairment under Section 504. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factors being measured rather than reflect the student's impairment, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

Eligibility

11. The EIT/Section 504 team meets and analyzes the evaluation data to determine if the student has a mental or physical impairment that substantially limits a major life activity and impacts education. An impairment in and of itself does not qualify a student for protection under Section 504. The impairment must substantially limit one or more major life activities in order to qualify a student for protection under Section 504. The determination of what constitutes a substantial limitation must be made on a case-by-case basis with respect to each individual student.
12. The Section 504 regulation requires the Section 504 Team to draw from a variety of sources in the eligibility determination process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. It is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons.

Written Consent for Section 504 Placement

13. Written consent from the parent is required for an initial Section 504 placement.

Section 504 Accommodation Plan/Services

14. Factors to be considered for plan/service options by a group of individuals knowledgeable about the student and his/her disability and evaluation are as follows:
 - a. Evaluation results
 - b. Section 504 eligibility determination
 - c. The student's unmet needs
 - d. Services and/or accommodations based on needs
 - e. Least restrictive environment for services
 - f. Discussion of and plan for possible staff training

Implementation

15. The Section 504 Team makes decisions regarding the necessary accommodations/services to allow for the student's disability. Parents should be consulted and given the opportunity for input regarding the accommodations.
16. The accommodations and/or services are documented on a Section 504 Plan form and implemented.
17. A Section 504 Case Manager is designated to coordinate the student's plan.

Review

18. Each student's Section 504 Plan is reviewed **at least annually**—sooner if warranted.



Red Flags! for Considering Possible Accommodations and/or Services under Section 504

- When a student is **referred to the EIT**, but the EIT determines an evaluation under the IDEA is not appropriate under the circumstances
- When a student is evaluated and **does not qualify for special education** services under the **IDEA**
- When a **parent** frequently expresses a concern about their child's performance
- When **suspension or expulsion** is being considered for any student
- When **retention** is being considered for any student
- When a student shows a pattern of **not benefiting from instruction**
- When a student returns to school after a **serious illness or injury**
- When a student **exhibits a chronic health condition**
- When a student has been identified as having **attention deficit disorder (ADD)** or **attention deficit hyperactivity disorder (ADHD)**
- When a student is identified as "**at risk**" or exhibits the potential for dropping out of school
- When **substance abuse** is an issue—the individual must have stopped using the substance and should either be in rehabilitation or have gone through the rehabilitation process.
- When a **disability** of any kind is known or suspected
- When a new **building or remodeling** is being considered
- When a student has a **parent with a disability**





Strategies, Accommodations, and Services



See also the Appendix F
for accommodation suggestions
related to
particular disabilities.



Strategies

The following is a list of possible strategies and accommodations for eligible students. Many are research based. Each case must be considered based upon the unique needs of the student and determined by the Section 504 team, with parent involvement.

See also the Appendix for specific suggestions related to the category of disability.

Environmental Strategies

- Provide a structured learning environment.
- Adjust class schedule.
- Provide classroom aides and note takers.
- Modify nonacademic times such as lunch room and recess.
- Modify physical education.
- Change student seating.
- Provide use of a study carrel.
- Alter location of personal or classroom supplies for easier access or to minimize distraction.

Organizational Strategies

- Modify test delivery.
- Use tape recorders, computer-aided instruction, and other audiovisual equipment.
- Select modified textbooks or workbooks.
- Tailor homework assignments.
- Provide peer tutoring.
- Set time expectations for assignments.
- Provide tests in segments so that student finishes one segment before receiving the next part.
- Highlight main ideas and supporting details in the book.

Behavior Strategies

- Use behavioral management techniques.

- Implement behavioral/academic contracts.
- Use positive reinforcements (rewards).
- Use negative reinforcements (consequences).
- Confer with the student's parents and other teachers.
- Establish a home/school communication system for behavior monitoring.
- Post rules and consequences for classroom behavior.
- Write a contract for student behavior.
- Offer social reinforcers (e.g., praise) for appropriate behavior.
- Establish daily/weekly progress report for the student.
- Implement self-recording of behaviors.

Presentation Strategies

- Tape lessons for the student.
- Provide photocopied material for extra practice (e.g., outlines, study guides).
- Require fewer drill and practice activities.
- Give both oral and visual instructions for assignments.
- Vary the method of lesson presentation:
 - a. Lecture
 - b. Small groups
 - c. Large groups
 - d. Audio visuals (e.g., filmstrips, study prints)
 - e. Peer tutors or cross-age tutors (e.g., take notes, monitor assignments, read aloud, listen)
 - f. Demonstrations
 - g. Experiments
 - h. Simulations
 - i. Games
 - j. One-to-one instruction with other adult
- Provide for oral testing.
- Ask student to repeat directions/assignments to ensure understanding.
- Arrange for a mentor to work with the student in his or her interest area or area of greatest strength.

Methodology Strategies

- Repeat and simplify instructions about in-class and homework assignments.
- Supplement oral instructions with visual instructions.

- Change instructional pace.
- Change instructional methods.

Curriculum Strategies

- Assess whether student has the necessary prerequisite skills. Determine whether materials are appropriate to the student's current interest and functioning levels.
- Use supplementary materials.
- Implement study skill strategies (survey, read, recite, review). Introduce definition of new terms/vocabulary and review to check for understanding.
- Limit amount of material presented on a single page.
- Provide a sample or practice test.
- Be aware of student's preferred learning style and provide appropriate instruction/materials.

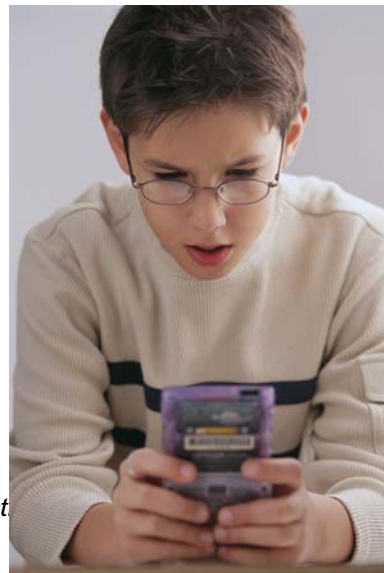
100 Effective Accommodations/Services

The following accommodations/services can be used for students experiencing academic and/or behavioral difficulties:

1. Provide study carrels.
2. Use room dividers.
3. Provide headsets to muffle noise.
4. Seat child away from doors/windows.
5. Seat near model (student or teacher).
6. Provide time-out area.
7. Rearrange student groups (according to instructional needs, role models, etc.).
8. Group for cooperative learning.
9. Vary working surface (e.g., floor or vertical surface such as blackboards).
10. Simplify/shorten directions.
11. Give both oral and written directions.
12. Have student repeat directions.
13. Have student repeat lesson objective.
14. Ask frequent questions.
15. Change question level.
16. Change response format (e.g., from verbal to physical, from saying to pointing).
17. Provide sequential directions (label as first, second, etc.).
18. Use manipulatives.
19. Alter objective criterion level.
20. Provide functional tasks (relate to child's environment).
21. Reduce number of items on a task.
22. Highlight relevant words/features.
23. Use rebus (picture) directions.

24. Provide guided practice.
25. Provide more practice trials.
26. Increase allocated time.
27. Use a strategy approach.
28. Change reinforcers.
29. Increase reinforcement frequency.
30. Delay reinforcement.
31. Increase wait time.
32. Use physical warm-up exercises.
33. Use specific rather than general praise.
34. Have a peer tutor program.
35. Provide frequent review.
36. Have student summarize at end of lesson.
37. Use self-correcting materials.
38. Adapt test items for differing response modes.
39. Provide mnemonic devices.
40. Provide tangible reinforcers.
41. Use behavioral contracts.
42. Establish routines for handing work in, heading papers, etc.
43. Use timers to show allocated time.
44. Teach self-monitoring.
45. Provide visual cues (e.g., posters, desktop number lines, etc.).
46. Block out extraneous stimuli on written material.
47. Tape record directions.
48. Tape record student responses.
49. Use a study guide.
50. Provide critical vocabulary list for content material.
51. Provide essential fact list.
52. Use clock faces to show classroom routine times.
53. Use dotted lines to line up math problems or show margins.
54. Provide transition directions.
55. Assign only one task at a time.
56. Provide discussion questions before reading.
57. Use word markers to guide reading.
58. Alter sequence of presentation.
59. Enlarge or highlight key words on test items.
60. Provide daily and weekly assignment sheets.
61. Post daily/weekly schedule.
62. Use graph paper for place value or when adding/subtracting two-digit numbers.
63. Provide anticipation cues.
64. Establish rules and review frequently.
65. Teach key direction words.
66. Use distributed practice.

67. Provide pencil grip.
68. Tape paper to desk.
69. Shorten project assignment into daily tasks.
70. Segment directions.
71. Number (order) assignments to be completed.
72. Change far-point to near-point material for copying or review.
73. Put desk close to blackboard.
74. Incorporate currently popular themes/characters into assignments for motivation.
75. Repeat major points.
76. Use physical cues while speaking (e.g., 1, 2, 3, etc.).
77. Pause during speaking.
78. Use verbal cues (e.g., "Don't write this down," "This is important").
79. Change tone of voice, whisper, etc.
80. Use an honor system.
81. Collect notebooks weekly (periodically) to review student notes.
82. Reorganize tests to go from easy to hard.
83. Color code place value tasks.
84. Use self-teaching materials.
85. Do only odd or even numbered items on a large task sheet.
86. Use a primary typewriter or large print to create written material.
87. Provide organizers (e.g., cartons/bins) for desk material.
88. Teach varied reading rates (e.g., scanning, skimming, etc.).
89. Provide content/lecture summaries.
90. Use peer-mediated strategies (e.g., "buddy system").
91. Call student's name before asking a question.
92. Use extra spaces between lines of print.
93. Color code materials/directions.
94. Use raised-line paper.
95. Circle math computation sign.
96. Establish a rationale for learning.
97. Use hand signals to cue behavior (e.g., attention, responding).
98. Use advance organizers.
99. Help students develop their own learning strategies.
100. Provide calculators.





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